



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. WR-90,338-02

EX PARTE ERIC EUGENE JOHNSON, Applicant

ON APPLICATION FOR A WRIT OF HABEAS CORPUS
CAUSE NO. W05-57889-1(B) IN THE CRIMINAL DISTRICT COURT NO. 2
FROM DALLAS COUNTY

Per curiam.

OPINION

Applicant was convicted of capital murder and automatically sentenced to life imprisonment without the possibility of parole. The Fifth Court of Appeals affirmed his conviction. *Johnson v. State*, No. 05-06-01237-CR. (Tex. App. -- Dallas, Feb. 7, 2008, no pet.). Applicant filed this application for a writ of habeas corpus in the county of conviction, and the district clerk forwarded it to this Court. *See* TEX. CODE CRIM. PROC. art. 11.07.

Applicant contends, among other things, that his mandatory sentence of life without parole for a crime he committed when he was a juvenile violates the Eighth Amendment to the United

States Constitution under *Miller v. Alabama*.¹ The trial court has determined, and the State agrees, that Applicant's sentence violates *Miller*.

We agree. Relief is granted. The sentence in Cause No. F-0557889-1 in the Criminal District Court No. 2 of Dallas County is vacated, and Applicant is remanded to the custody of the Sheriff of Dallas County for further sentencing proceedings to permit the factfinder to assess Applicant's sentence at (1) life with the possibility of parole or (2) life without parole after consideration of Applicant's individual conduct, circumstances, and character. The trial court shall issue any necessary bench warrant within 10 days after the mandate of this Court issues.

Based on the trial court's findings of fact, as well as this Court's independent review of the entire record, we deny relief on Applicant's remaining claims.

Copies of this opinion shall be sent to the Texas Department of Criminal Justice-Correctional Institutions Division and Pardons and Paroles Division.

Delivered: April 12, 2023
Do not publish

¹ 567 U.S. 460, 132 S. Ct. 2455, 183 L. Ed. 2d 407 (2012).